

# PATENT COOPERATION TREATY

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From the INTERNATIONAL SEARCHING AUTHORITY

CORRECTED VERSION 30 NOV. 2004

To:  
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PCT

BREVETS/PATENTS  
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## WRITTEN OPINION OF THE INTERNATIONAL SEARCHING AUTHORITY

(PCT Rule 43bis.1)

Date of mailing (date/month/year) 29 October 2004 (29-10-2004)

Applicant's or agent's file reference  
0130.001-WO

FOR FURTHER ACTION  
See paragraph 2 below

International application no  
PCT/CA2004/001417

International filing date (date/month/year)  
29 July 2004 (29-07-2004)

Priority date (date/month/year)  
29 July 2003 (29-07-2003)

International Patent Classification (IPC) or both national classification and IPC

B65D 5/18, B65D 5/52, B65D 5/72

Applicant L.J. COMMUNICATIONS INC. ET AL

1. This opinion contains indications relating to the following items :

- ☒ Box No. I Basis of the opinion
- ☒ Box No. II Priority
- ☐ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- ☒ Box No. IV Lack of unity of invention
- ☒ Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- ☐ Box No. VI Certain documents cited
- ☒ Box No. VII Certain defects in the international application
- ☒ Box No. VIII Certain observations on the international application

### 2. FURTHER ACTION

If a demand for international preliminary examination is made, this opinion will be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA") except that this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of 3 months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

Name and mailing address of the ISA/  
Commissioner of Patents  
Canadian Patent Office  
Box PCT, Ottawa/Gatineau K1A 0C9

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Authorized officer

Jason Fisher (819) 953-9384

**WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY**

International application No.  
PCT/CA2004/001417

**Box No. I**      **Basis of this opinion**

1. With regard to the language, this opinion has been established on the basis of the international application in the language which it was filed, unless otherwise indicated under this item.

- ☐ This opinion has been established on the basis of a translation from the original language into the following language \_\_\_, which is the language of a translation furnished for the purposes of international search (under Rules 12.3 and 23.1(b)).

2. With regard to any nucleotide and/or amino acid sequence disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of :

a. type of material

- ☐ a sequence listing  
☐ table(s) related to the sequence listing

b. format of material

- ☐ in written format  
☐ in computer readable form

c. time of filing/furnishing

- ☐ contained in the international application as filed.  
☐ filed together with the international application in computer readable form.  
☐ furnished subsequently to this Authority for the purposes of search.

3. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.

4. Additional comments :

**WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY**

International application No.  
PCT/CA2004/001417

**Box No. II      Priority**

- 1    ☒ The following document has not yet been furnished :
- ☒ copy of the earlier application whose priority has been claimed (Rule 43*bis*.1 and 66.7(a)).
- ☐ translation of the earlier application whose priority has been claimed (rule 43*bis*.1 and 66.7(b)).
- Consequently it has not been possible to consider the validity of the priority claim. This opinion has nevertheless been established on the assumption that the relevant date is the claimed priority date.
- 2    ☐ This opinion has been established as if no priority had been claimed due to the fact that the priority claim has been found invalid (Rules 43*bis*.1 and 64.1). Thus for the purpose of this opinion, the international filing date indicated above is considered to be the relevant date.
3. Additional observations, if necessary :

**WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY**

International application No.  
**PCT/CA2004/001417**

**Box No. IV Lack of unity of invention**

- 1 ☐ In response to the invitation (Form PCT/ISA/206) to pay additional fees the applicant has :
- ☐ paid additional fees
- ☐ paid additional fees under protest
- ☐ not paid additional fees
- 2 ☐ This Authority found that the requirement of unity of invention is not complied with and chose not to invite the applicant to pay additional fees.
- 3 This Authority considers that the requirement of unity of invention in accordance with Rule 13.1, 13.2 and 13.3 is
- ☐ complied with
- ☐ not complied with for the following reasons :
- 4 Consequently, this opinion has been established in respect of the following parts of the international application :
- ☒ all parts
- ☐ the parts relating to claims Nos. \_\_\_\_\_

**WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY**

International application No.  
PCT/CA2004/001417

**Box No. V reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**

**1. Statement**

Novelty (N)	Claims	1 - 11	YES
	Claims		NO
Inventive step (IS)	Claims	6 - 10	YES
	Claims	1-5, 11	NO
Industrial applicability (IA)	Claims	1-11	YES
	Claims		NO

**2. Citations and explanations :**

The following naming convention will be used for referring to the ISR cited documents:

D1:	CA 747762 (DAVIDSON, T. L.) 06 December 1966 (06-12-1966)
D2:	US 3685640 (TOLAAS, W. M.) 22 August 1972 (22-08-1972)
D3:	CA 415603 (CLARKE, J. D.) 05 October 1943 (05-10-1943)
D4:	CA 2424209 A (BRICKWOOD, M. J.) 02 July 2003 (02-07-2003)
D5:	US 3591069 (HELLER Jr., W. C.) 06 July 1971 (06-07-1971)
D6:	US 5628396 (WEINER, D. S.) 13 May 1997 (13-05-1997)

**NOVELTY**

Claims 1-11 are considered to be novel in light of the prior art. No document completely discloses a box having a substantially frustopyramidal shape with an open top and a closed bottom and with four exterior walls and four interior walls which form an enclosed space, wherein at least one of said exterior walls has an opening.

**INVENTIVE STEP**

Claims 1-5, 11 are not considered to be inventive in light of the prior art. D1 and D3 both disclose boxes made of a single sheet of paperboard having a frustopyramidal shape with an opened top and a closed bottom, with four exterior and four interior walls which form an enclosed space. Beyond this, D1 further teaches, a blank for said box comprises a substantially cross-shaped centre portion and four side portions, wherein the cross-shaped centre portion comprises a middle section that forms the bottom of the box, and wherein the four side portions form the exterior walls. D1 also suggests the use of such a box for use as a substrate for displaying illustrations and the like. D1 and D3 fail to teach or fairly suggest such a box with an opening in its walls (for visual access to the enclosed space), but D3 and D5 both teach boxes with exterior wall openings for such a purpose. As such, the matter in claims 1, 3, 5 & 11 cannot be viewed as inventive.

D4 discloses a box for holding stacks of paper tickets, the inside of the box being accessible to a person's fingers by way of a vertically slotted panel. Therefore the matter in claim 2 cannot be viewed as inventive.

D5 discloses a container with an opening in an external wall, the opening being covered by a transparent window sheet. Therefore the matter in claim 4 cannot be viewed as inventive.

D6 also discloses a folded box for use of acting as an advertising medium. Similarly, the matter in claim 11 cannot be viewed as inventive.

**INDUSTRIAL APPLICABILITY**

Claims 1-11 appear to have industrial applicability.

**WRITTEN OPINION OF THE  
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International application No.  
**PCT/CA2004/001417**

**Box No. VII    Certain defects in the international application**

The following defects in the form or contents of the international application have been noted :

The description does not comply with PCT Rule 5.1. The Manner of the Description does not conform to the requisite format. The current description is missing sections appropriately titled and detailing A) the disclosure of the invention, as claimed, in such terms that the technical problem (even if not expressly stated as such) and its solution can be understood, and state the advantageous effects, if any, of the invention with reference to the background art; and B) brief descriptions of the figures in the drawings.

WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY

International application No.  
PCT/CA2004/001417

**Box No. VIII** Certain observations on the international application

The following observations on the clarity of the claims, description, and drawings or on the question whether the claims are fully supported by the description, are made :

Claim 2 does not comply with PCT Article 6. The claim fails to place the "slot" on the box. There is also some ambiguity as to which of the described slots (item 42 or items 72,74) is being referred to in this claim.

Claim 3 does not comply with PCT Article 6. The relative term 'thin' does not have a well-recognized meaning in the art, thus results in a lack of clarity.

Claim 5 does not comply with PCT Article 6. The claim states that the "four side portions, once folded, will become the exterior walls, with at least one of said four side portions including an opening". This contradicts the description and drawings which teach that the four side portions (52,54,56,58) become the interior walls, and not the exterior ones. The description does teach that the exterior walls are formed from adjacent portions of the cross-shaped center portion (50). The Applicant should note that there is no support for interior walls with any openings therein, thus a simple substitution of terms ("interior" for "exterior") would lead to a further objection.

Claim 5 does not comply with PCT Article 6. The term "an opening" appears to be a double inclusion of the opening defined in claim 1. The term should be referred to using a definite article, or should be defined distinctly from the identically-named feature.

Claim 7 does not comply with PCT Article 6. The terms "said slot" and "the side portion adjacent to said exterior wall" have no antecedents, in some or all dependency constructions of the claims.

Claim 8 does not comply with PCT Article 6. The claim is ambiguous as it is not clear whether the term "said portion" is meant to refer to A) the "four side portions" (whereby there the correct term for would be "said portions") or to B) the "side portion adjacent to said exterior wall". A clarification of the term is required.